

VIRGINIA DEPARTMENT OF EDUCATION  
Division of Special Education and Student Services  
Office of Dispute Resolution & Administrative Services

**ANNUAL REPORT  
OF THE  
DISPUTE RESOLUTION SYSTEMS  
AND  
ADMINISTRATIVE SERVICES**

- Due Process Hearing System
- Mediation Services
- Complaints Resolution System
- Administrative Services

Reporting Period: July 1, 2006– June 30, 2007

Reporting Date: August 1, 2007

This review serves to assist the Virginia Department of Education (VDOE) in:

- ensuring compliance with the federal and state mandates governing the dispute resolution systems;
- identifying future training activities, particularly for hearing officers and mediators;
- identifying and addressing systemic issues impacting local school divisions; and,
- assessing the strengths and challenges of each system.

This analysis serves as a reporting mechanism to VDOE's management team responsible for the development of VDOE's State Performance Plan to the U.S. Department of Education's Office of Special Education Programs and for other data collection reports. It also provides information on this office's systems to VDOE staff and consumer groups listed at the end of this report.

Questions regarding the content of this report may be directed to the Office of Dispute Resolution and Administrative Services at (804) 225-2013. Information regarding the office's services is available on the web at: <http://www.doe.virginia.gov/VDOE/dueproc>



## PART I DUE PROCESS HEARING SYSTEM

- Baseline Data
- Hearing Officer Performance
  - ✓ Management of Hearings
  - ✓ Decisions
  - ✓ Managing the 45-Day Timeline
- Recertification of Hearing Officers
- Training of Hearing Officers
- Implementation Plans
- Follow-up System for Implementation Plans
- ODR/AS Initiatives

### A. BASELINE DATA

#### ☐ Number of Hearing Requests

	Reporting Periods		
	2006 - 2007	2005 - 2006	2004 - 2005
Number of requests	69	98	107
Number dismissed/withdrawn <sup>1</sup>	48	68	68
Number of decisions rendered after full hearing <sup>2</sup>	8	15	28
Number pending as of 6-30-06	13	15 <sup>3</sup>	11 <sup>4</sup>

<sup>1</sup> Cases closed without a hearing due to a mediation, or settlement agreement, or request for withdrawal.

<sup>2</sup> Redacted decisions are posted on the web: <http://www.doe.virginia.gov/VDOE/dueproc>

<sup>3</sup> The previously pending 15 cases were concluded during 2006-07; 8 were dismissed/withdrawn, 6 decisions were rendered after full hearing; 1 was dismissed by the Hearing Officer after finding due process notice insufficient and that the parent did not file an amended notice.

<sup>4</sup> These 11 cases were concluded during 2005-2006. 9 were dismissed/ withdrawn; 2 decisions were rendered after full hearing.

☐ **Number of Hearing Requests – 5-Year Period**

<b>Year</b>	<b>2006-2007</b>	<b>2005-2006</b>	<b>2004-2005</b>	<b>2003-2004</b>	<b>2002-2003</b>
Total Requests	69	98	107	127	100

☐ **Number of Decisions**

	<b>Reporting Periods</b>		
	<b>2006-2007</b>	<b>2005 – 2006</b>	<b>2004 – 2005</b>
Number of Decisions	<b>8</b>	<b>15</b>	<b>28</b>
Initiating Party:			
Parent	8	14	26
LEA	0	1	2
Prevailing Party:			
Parent	1	0	2
LEA	6	13	25
Split	1	2	1

☐ **Additional Case Information**

During this reporting period, 6 cases, initiated in 2005-06, were closed.

Disposition of these 6 cases

<b>Issues</b>	<b>Prevailing Party</b>	
	<b>LEA</b>	<b>Parent</b>
<b>IEP:</b>		
✓ placement	<b>11</b>	<b>0</b>
✓ services	<b>1</b>	<b>0</b>
<b>Due Process:</b>		
✓ procedural violations	<b>11</b>	<b>0</b>
<b>Eligibility:</b>		
✓ Child Find	<b>1</b>	<b>0</b>
✓ Evaluations	<b>0</b>	<b>3</b>
<b>Others:</b>		
✓ Statute of Limitation	<b>1</b>	<b>0</b>

☐ **Issues and Disposition**

Issues / Sub-issues	2006 – 2007			
	# Issues	Prevailing Party		
		LEA	Parent	Split
<b>Total case issues</b>	<b>12</b>	<b>9</b>	<b>3</b>	<b>0</b>
<b>IEP</b>	<b>7</b>			
Placement	6	6	0	0
Services	1	1	0	0
Development	0	0	0	0
<b>Due Process</b>	<b>3</b>			
Procedural violations	2	1	1	0
Burden of proof	1	1	0	0
<b>Discipline</b>	<b>2</b>			
Discipline	2	0	2	0

Issue	2006 - 2007			2005 - 2006			2004 - 2005		
	Total	LEA	P	Total	LEA	P	Total	LEA	P
<b>IEP</b>	<b>7</b>	7	0	<b>19</b>	17	2	<b>30</b>	29	1
<b>Due Process</b>	<b>3</b>	2	1	<b>2</b>	2	0	<b>5</b>	4	1
<b>Discipline</b>	<b>2</b>	0	2	<b>2</b>	2	0	<b>12</b>	12	0
<b>Eligibility</b>	<b>0</b>	0	0	<b>2</b>	2	0	<b>4</b>	4	0
<b>Other</b>	<b>0</b>	0	0	<b>2</b>	2	0	<b>12</b>	9	3
• ESY	0	0	0	1	1	0	4	2	2
• IEE	0	0	0	1	1	0	3	3	0
• 504	0	0	0	0	0	0	3	3	0
• Complaints	0	0	0	0	0	0	1	1	0
• Age of Majority	0	0	0	0	0	0	1	0	1
<b>Totals</b>	<b>12</b>	<b>9</b>	<b>3</b>	<b>27</b>	<b>25</b>	<b>2</b>	<b>63</b>	<b>58</b>	<b>5</b>

- ☐ **Number of Hearing Officers**
- ☐ **Number of School Divisions with hearing requests**

	Reporting Periods		
	2006 – 2007	2005 – 2006	2004 - 2005
Number of Hearing Officers	30	35	38
✓ assigned to hearings <sup>5</sup>	27	33	34
✓ assigned more than once	14	22	23
Number of school divisions involved in hearing requests	33 <sup>6</sup>	40	38 <sup>7</sup>

#### ☐ **Resolution Sessions**

- The IDEA '04 imposed an additional requirement that upon receipt of the request for due process, the school division is required to schedule a Resolution Session with the parent. This provides both parties with the opportunity to resolve the issue. The Resolution Session is not the same option as mediation. If both parties agree to substitute mediation for the resolution session, the 30-day resolution period applies but a resolution session is not held. If both parties waive resolution, the due process request moves forward in accordance with the required timelines.

Resolution Sessions				
Reporting Year	Number of Cases	Resolution Sessions Held <sup>8</sup>	Agreement Reached	Waived
2005-2006	97	59	16	6
2006-2007	69 <sup>9</sup>	39	17	12

#### ☐ **Trends**

- The number of requests for due process hearings (69) decreased by 29 over last year's reporting period, and was 38 less than reported in 2004-05. This total falls

<sup>5</sup> Two of the hearing officers serve as Complaint Appeal Reviewers for the Complaint Appeal System. They are required to complete the same training requirements as the other hearing officers; however, while serving as a complaint appeal reviewer, they are not appointed to due process hearing cases.

<sup>6</sup> One case involved the VDOE as a co-party and one case involved State Operated Programs.

<sup>7</sup> Four cases involved VDOE as a co-party.

<sup>8</sup> Cases where sessions were not held involved a written waiver of the session or there was a resolution of the case prior to the scheduled resolution meeting.

<sup>9</sup> In eight pending cases, there has not been sufficient time for a resolution session to be held during the current period. In two cases, a meeting was not held prior to a hearing on a preliminary matter; one case was school division initiated; seven pending cases were awaiting scheduling of meetings.

below the 5-year average (501 total cases, averaging 100.2 cases per year) by approximately 31 cases. In contrast, the 98 requests reported in 2005-06 were approximately 10 fewer than the then-current five-year average (552 total cases, averaging approximately 110.4 cases per year).<sup>10</sup> While no single factor can be identified as contributing to the decreased number of total requests, effective mediation and school division efforts in early dispute resolution may have contributed to this reduction.

- Seven (7) fewer school divisions (33 total) were involved in hearing requests than for the prior reporting period; however, this year's total number is only five (5) less than the total reported in 2004-05 (38). This decrease is not indicative of any major inconsistency with previous reporting periods. No particular school division or region experienced an influx of cases in this reporting period.
- Consistent with total year data for 2005-06, data from this current reporting period identified three repetitive themes:<sup>11</sup>
  - ✓ Parents are the more frequent initiating party.
  - ✓ LEAs are more often the prevailing party.
  - ✓ Issues focus primarily on IEP placement.
- For the second consecutive year, the number of cases actually going to full hearing dropped significantly. The number of hearing decisions (8) was about 53% of the previous year's hearing decisions (15); in 2005-06, the number of hearing decisions was approximately 54% of the prior year's number (28). As noted in last year's annual report, this trend may be attributable to the new IDEA '04 requirement for resolution sessions (20 U.S.C. 1415(f)(1)(B)). The 2005-06 reporting period was the first opportunity to present baseline data on that category. Implementing regulations, effective October 13, 2006, detail this resolution process (34 C.F.R. § 300.510).
- The number of case issues addressed in this reporting period (12) is less than half the number of case issues reported in 2005-06 (27). Although IEP issues again comprised the greatest portion of case issues (7 of 12, or about 58% of case issues), IEP issues claimed about 70% (19 of 27) of total case issues in the previous reporting period. This decrease in IEP issues may simply reflect the overall decrease in total case issues from last year.
- The number of hearing officers (30) decreased by five (5) persons this reporting period. This number represents a reduction of 95 hearing officers since the 2001-02 school year. The reduction in the number of hearing officers and their increased experience at the pre-hearing level are positive outcomes of the

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<sup>10</sup>2005-2006 Annual Report for Special Education, Office of Dispute Resolution and Administrative Services.

<sup>11</sup>*Id.*

increased training requirements required by IDEA 2004 and the implementing regulations effective in October 2006 (34 C.F.R. § 300.511(1) (ii),(iii), (iv)). Hearing officers are receiving more assignments. Reviewing matters more frequently—even if only at the pre-hearing level, hearing officers further enhance those skills addressed in training.

## **B. HEARING OFFICER PERFORMANCE – MANAGEMENT OF THE HEARING**

### ☐ **Consumer Evaluation**

Evaluations are sent to both parties following the issuance of each decision, whether or not the case went to full hearing or was dismissed because of a mediation agreement, settlement agreement or request for withdrawal.

The director of the Office of Dispute Resolution and Administrative Services (ODR/AS) reviews each evaluation response. The coordinator of due process services checks any concerns against the case record and may call the party(ies) for clarification. The director or coordinator contacts the hearing officer to review issues of concern and as necessary, issues a written cautionary notice to the hearing officer regarding any identified concerns. Additionally, as necessary, the director or coordinator may meet with the hearing officer to review the application of the regulations.

	Reporting Periods		
	2006-2007	2005-2006	2004 – 2005 <sup>12</sup>
Number of evaluations sent	45	69	300
Number of responses	14	20	69

### ☐ **Trends**

- The number of consumer evaluations (45) decreased by 24 this reporting period, representing about 65% of the previous year's total (69). In stark contrast, the number of evaluations reported in 2005-06 represented only 23% of the number reported in 2004-05 (300). This dramatic decrease is likely due to the increased number of resolution sessions held with a resulting agreement or withdrawal of the request for due process. Hence, the parties had no interaction with the hearing officer.

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<sup>12</sup> The reported numbers are not related to the number of hearing requests for the reporting period. Rather, they relate to the decisions received by ODR/AS for the reporting period, which includes those cases carried over from the previous reporting period.

- The responses indicated that the hearing officers remain strongly consistent in the areas of:
  - ✓ Scheduling agreeable dates, times, and locations;
  - ✓ Maintaining a fair and impartial atmosphere;
  - ✓ Being knowledgeable of the requirements of both federal and state laws and regulations; and
  - ✓ Making prompt contact with both the parent and the LEA.
- Areas showing continued improvement:
  - ✓ Informing the parties of the availability of mediation;
  - ✓ Issuing the decision in the required timelines; and
  - ✓ Helping ensure that witnesses needed for the hearing were present.
- Areas of concern are raised with the individual hearing officer and as necessary, notice is sent to the individual regarding any need for improvement or conditional recertification status.

#### ☐ **Evaluation of the Hearing Officers**

On April 1, 2006, ODR/AS established a system for VDOE evaluating each hearing officer's management of pre-hearing conferences and hearings. VDOE developed and disseminated to its hearing officers operational procedures for this system; evaluation forms; and trained 3 of the hearing officers to serve in the role of evaluator. They are required to complete the same training requirements as the other hearing officers; however, while serving as an evaluator, they are not appointed to due process hearings. The evaluators have been assigned to all pending cases and have provided evaluations in all cases where they attended hearings. The evaluations have been positive and have promoted the overall quality of the hearing process. When areas of concern have been observed by the evaluation, the observed concerns are reviewed with the hearing officer. ODR/AS director and coordinator of due process services reviews all evaluations and follows up, as necessary, with the respective hearing officer.

### **C. HEARING OFFICER PERFORMANCE - DECISION**

ODR/AS' director and coordinator of due process services review each hearing officer's decision.<sup>13</sup> Additionally, the coordinator reviews and monitors all pre-hearing

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<sup>13</sup> Redacted decisions are posted on the web: <http://www.doe.virginia.gov/VDOE/dueproc>



reports, orders, and correspondences. Either the director or coordinator contacts the hearing officers if errors are identified relative to:

- apparent bias to either party
- correct use of citations
- readability
- correct appeal information
- other errors, such as incorrect names or conflicting data

ODR/AS may not review the decision for errors of law since that is reserved for appellate review. As necessary, the director or coordinator contacts the hearing officer with any concerns and, in certain instances, requires the hearing officer to issue an error correction or a statement of clarification. These procedures are consistent with VDOE's management responsibilities for the due process system. (8 VAC 20-80-76 Q.2)

#### ☐ **Trends**

- Decisions and pre-hearing reports continue to be consistent in:
  - ✓ writing in a manner both the LEA and parents can understand;
  - ✓ advising both parties of the option of mediation;
  - ✓ clearly identifying what was being ordered as a result of the decision; and,
  - ✓ including references to statutes or regulations that support the conclusions reached by the hearing officer.
- Fewer hearing officers erred this reporting period relative to:
  - ✓ advising the parties of their appeal rights; or
  - ✓ documenting that extensions of timelines were in the best interests of the child.

### **D. HEARING OFFICER – TRAINING**

In addition to the training requirements of the Virginia Supreme Court, the VDOE is responsible for training hearing officers on the legal aspects of special education (laws, regulations, and case law updates) and management of special education hearings. For the 2005-06 school year, hearing officers attended a two-day training event, April 2006, which focused on:

- ✓ IDEA 2004 and IDEA 2006 Regulations
- ✓ case law update

- ✓ IDEA 2006 final regulations and the implications of these new provisions for the management of hearings; resolution sessions, and disciplinary proceedings.
- ✓ IDEA 2004 requirements for hearing officers with special attention to the management of the hearing; resolution sessions; and challenges to the sufficiency of the notice.
- ✓ Ethical issues that challenge attorneys as special education hearing officers.

Since 2001, the trainings have included aspects of specific disabilities. These one-day sessions have focused on: understanding testing and assessment as applied to children with disabilities; the application of evaluations to eligibility and IEP team decisions; assessments for related services; parental issues; and methodologies. To date, specific disability focus areas include: autism, learning disabilities, ADHD/ADD, and autism spectrum disorders.

In July of 2005, many of the changes mandated by IDEA 2004 became effective. In October of 2006, the implementing federal regulations became effective. During this year, the hearing officers have been provided specific training and technical assistance for implementing these statutory and regulatory changes. The resolution period process has been a challenge to hearing officers' efforts to manage the timeline for the hearing process. In addition, hearing officers are receiving a greater number of pre-hearing motions in the form of due process notice sufficiency challenges. These motions have required additional pre-hearing conferences among the parties in efforts to provide greater focus to the ultimate hearings held. The year has included ongoing training in order to continue to facilitate acclimation of hearing officers to the statutory and regulatory changes in a variety of contexts.

Supplemental training activities this year have included:

- ✓ the issuance of VDOE's Guidance Document on the IDEA final regulations requirements and other technical assistance documents;
- ✓ ODR/AS summaries and texts of Virginia and Fourth Circuit Court decisions relative to special education cases for the 2006-07 year.

#### **E. MANAGING THE 45-DAY MANDATED TIMELINE**

Hearing officers are mandated to issue their decisions within 45 calendar days after the local school division receives the request for the hearing. The hearing officer may grant an extension only when it serves the best interest of the child. (8 VAC 20-80 76.K of the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*)

VDOE identified the 45-day timeline as one of its target areas in its Continuous Improvement Monitoring Process Reports to U.S. Department of Education's Office of Special Education Programs (OSEP) (2002 and 2003); Annual Performance Report, 2004; and now the State Performance Plan (Indicator 17). VDOE developed and implemented a process that includes intensive monitoring and tracking of these timelines, training hearing officers on this subject, and issuance of notices to hearing officers who fail to document extensions, and issuance of non-recertification, as necessary. VDOE also assured Virginia's Code Commission that these efforts would address the concerns raised during the public hearings of the Administrative Law Advisory Committee. (VDOE Report to the Code Commission and ALAC, November 1, 2002)

	2006 –2007	2005 – 2006	2004 - 2005
Total number of due process requests	69	98	107
Number of cases exceeding the 45-day timeline	0 <sup>14</sup>	12	31

#### ☐ Trends

- The first level of data evidences a trend of cases not requiring extensions to complete the hearing process:
  - ✓ 2002-03: 46 out of 100 hearing requests involved extensions.
  - ✓ 2003-04: 46 out of 127 hearing requests involved extensions.
  - ✓ 2004-05: 31 out of 107 hearing requests involved extensions.
  - ✓ 2005-06: 6 out of 98 hearing requests involved extensions.
  - ✓ 2006-07: All cases were completed without exceeding the 45-day timeline.
- Despite a number of difficult case issues, all cases initiated in the reporting period were completed within the 45-day timeline.

<sup>14</sup> One case was completed on the 47<sup>th</sup> day but the 45<sup>th</sup> day was a Saturday. Since the case concluded on the next business day, this case properly concluded within the 45-day time limit.

☐ **Number of days over the 45-day timeline**

	Reporting Periods		
	2006 – 2007	2005 – 2006	2004 - 2005
<b>Total Cases</b>	<b>0</b>	<b>12</b>	<b>31</b>
1 – 30 days	0	6	17
31 – 90 days	0	5	11
91 – 120 days	0	0	2
121 +	0	1	1

- The data indicates consistency in reporting periods and a trend toward reduction of cases exceeding the 45-day timeline.
- The hearing officers are successfully documenting extensions during this reporting period. The coordinator of due process services employs an electronic tracking log to monitor all timelines and extensions to ensure that the extensions comport with regulatory requirements

☐ **Party requesting the extension**

	Reporting Periods		
	2006 – 2007	2005 – 2006	2004 - 2005
Parent	1 <sup>15</sup>	14	24
LEA	0	0	4
Both	0	9	12
Hearing Officer	0	1	1
Child	0	0	0

- The reasons for the extension are consistent with previous years:
  - ✓ accommodate availability of necessary witnesses;
  - ✓ parents obtaining counsel;
  - ✓ scheduling conflicts<sup>16</sup>; and
  - ✓ allow presentation of argument to hearing officer.

<sup>15</sup> One extension of the 45-day timeline was granted but the case was completed within the 45-day timeline. This extension was carefully documented by the hearing officer.

<sup>16</sup> Hearing officers have been reminded that Virginia's regulations governing special education do not permit extensions to be granted to accommodate the scheduling conflicts of counsel.

- Consistent with previous reporting periods, data for 2006-07 indicates that requests for extension are most frequently made by parents. This pattern may be attributable to parents sometimes feeling overwhelmed by the multiple layers of requirements and/or concluding that they should not represent themselves.

## **F. IMPLEMENTATION PLANS**

Following the completion of each due process hearing, whether or not it goes to full hearing or is settled or dismissed, the school division is required to file with ODR/AS an Implementation Plan that reports how the school division will implement the hearing officer's decision. The LEA has 45 calendar days to submit the implementation plan following the hearing officer's decision. The coordinator of due process services reviews and approves all implementation plans.

	Reporting Periods		
	2006 – 2007	2005 – 2006	2004 - 2005
Number of plans required	<b>69</b>	<b>98</b>	<b>107</b>
Received	52	66	92
Approved	52	66	87
Pending review	0	0	5
Pending receipt/review	17	32 [0*]	15 [0*]
Total pending closure	17	32 [0*]	20 [0*]

\*As of 6/30/06

### **□ Trends**

- For the second consecutive year, all implementation plans submitted to ODR/AS were approved. For this reporting period, approximately 75% of the total number of plans required (52 of 69) were received, compared to about 67% of the number of plans required in 2005-06. However, both of these percentages are lower than the 85% (92 of 107) received in 2004-05.

## **G. FOLLOW-UP SYSTEM FOR IMPLEMENTATION PLANS**

VDOE identified as a target area in its Continuous Improvement Monitoring Process (CIMP) follow-up with school divisions to ensure implementation of the plans submitted by LEAs to comport with the hearing officers' decisions and approved by VDOE. This meant developing a system to review all implementation plans, to require documentation, and/or to initiate an on-site review. In VDOE's CIMP reports to OSEP in

June and November 2003, and 2004 Annual Performance Report, ODR/AS documented its system for meeting this responsibility, which was implemented on July 1, 2003. ODR/AS began with the 2002-03 Implementation Plans. ODR/AS continues to report its efforts in its State Performance Plan at Indicator 15.

	Reporting Periods		
	2006 – 2007	2005 – 2006	2004 – 2005
Number of due process cases	69	98	107
Number of plans requested and received	52	66	92 [107*]
Number of plans pending receipt	17	32	15 [0*]
Follow-up Implementation Plans reviewed	52	66	87 [107*]
✓ not requiring additional action	24	32	50 [67*]
✓ requiring follow-up activity	28	33	37 [40*]
✓ additional documentation received/approved	28	33	34 [37*]
IPs pending review	0	0	3 [0*]

\*As of 6/30/06

## ☐ Trends

- Again this year, no reviews of implementation plans were pending. About 46% of all implementation plans (24 of 52) required no additional action after follow-up review, while slightly more than half (28 of 52) required further action. In each of these latter cases, additional documentation was received and ultimately approved.

## H. INITIATIVES

- ☐ ODR/AS is developing a guidance document for hearing officers on the subject of the 45-day timeline. This project was identified in VDOE's 2003 CIMP Report to OSEP; in VDOE's 2002 report to Virginia's Code Commission; in VDOE's 2004

Annual Performance Report, and the current State Performance Plan (Indicator 17).

- The office's Work Plan includes the following components:
  - ✓ reviewing information from other SEAs regarding policies, procedures, and practices;<sup>17</sup>
  - ✓ reviewing three years of data to determine what patterns may exist relative to such areas as reasons for the extensions and hearing officers granting the extensions;
  - ✓ reviewing applicable case law on this subject; and developing the guidance document.
  - ✓ Guidance Document completed and awaiting approval for dissemination.

Anticipated completion date: December 2007.

- ☐ The coordinator of due process services developed a checklist for hearing officers as a reminder of the regulatory responsibilities during the hearing process. It includes a provision on how to calculate the 45-day timeline.
- ☐ In VDOE's 2004 Annual Performance Report to OSEP, VDOE reported a project target and activity that focuses on the development of a guidance document, Alternative Dispute Resolution Guidance Document. This project was initiated during this reporting period. VDOE also developed this project in response to the concerns raised during the public hearing held by the Virginia Code Commission's Administrative Law Advisory Committee. The concerns related to the parents' need for understanding the legal intricacies of the process when representing themselves in due process hearings. Without this understanding, parents reported that they remained at a disadvantage when the school board attorney represents the LEA's interests, thus eliminating a level playing field. The document will also provide information and guidance on conflict resolution, such as mediation and the complaints system.

Anticipated completion date: December 2007.

- ☐ In response to the above referenced public hearing, ODR/AS developed and posted on its web site, a list of legal and advocacy services for parents and students with disabilities, with a brief summary description of each of the

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<sup>17</sup> The Mid-South Regional Resource Center was instrumental in obtaining this information from other SEAs for VDOE.

services. <http://www.doe.virginia.gov/VDOE/dueproc> This document was updated during 2006-07.

- ☐ ODR/AS established a work group during 2006-07 to develop a Guidance Manual for school personnel and parents on the Resolution Session process. The work group has met twice to review the regulatory requirements for resolution sessions, analyze information from other states, and initiate drafting the guidance manual.

Anticipated completion date: July 2008.

- ☐ Based on the IDEA 2004 mandate for Resolution Sessions, ODR/AS has included a tracking system for resolution sessions held and disputes resolved through resolution agreements.
- ☐ ODR/AS will provide the hearing officers with guidance documents and training on the updated state regulations when they are implemented.



## PART II    MEDIATION SERVICES

- Baseline Data
- Evaluations
  - ✓ System
  - ✓ Consumer
  - ✓ Mediators
- Training
- ODR/AS Initiatives

Mediation services are available to parents and school administrators to help them negotiate issues that divide them regarding the identification, testing or provision of services to school age students who are thought to need help in order to have access to or to benefit from the curriculum. The sooner mediation is sought; the more likely it is to be successful. It helps people to a successful outcome in 74-82% of the times when it is sought. Changing the format and the dynamics of a meeting is likely to change its outcome. Mediation is a good option to bear in mind when the settlement period is invoked by a request for hearing. There is material descriptive of the mediation process on our web site at [http:// www.doe.virginia.gov/VDOE/dueproc](http://www.doe.virginia.gov/VDOE/dueproc) > mediation.

### A. BASELINE DATA

VDOE's Special Education Mediation Services joined the ODR/AS staff on July 1, 2003. This unit includes: 7 mediators; ODR/AS director, coordinator of mediation services, and administrative assistant. The current system for maintaining the baseline data was developed and implemented during the 2003-2004 reporting period.

#### ☐ Disposition of Requests

	Reporting Periods		
	2006 – 2007	2005 – 2006	2004-2005
<b>Number of requests</b>	<b>129</b>	<b>125</b>	<b>133</b>
• resolved	81	74	79
• partially resolved	2	1	5
• unresolved	18	25	27
• withdrawn	17	14	21
• pending	11	11	1

\*As of 6/30/06

☐ **Requests Involving Due Process**

	Reporting Periods		
	2006 – 2007	2005 – 2006	2004 - 2005
<b>Number of requests</b>	<b>129</b>	<b>125</b>	<b>133</b>
<b>Number involved in DP</b>	<b>21</b>	<b>24</b>	<b>29</b>
✓ resolved	6	13	17
✓ partially resolved	1	1	0
✓ unresolved	6	7	7
✓ withdrawn	7	3	5
✓ pending	1	0	0

☐ **Three-Year Review of Mediation Requests**

	2006-2007	2005-2006	2004-2005
Mediations requested	129	125	133

☐ **Issues**

	Reporting Periods		
	2006 – 2007	2005 – 2006	2004-2005
<b>Total number of issues</b>	<b>202</b>	<b>206</b>	<b>195</b>
IEP	<b>135</b>	<b>140</b>	<b>131</b>
✓ sufficiency of services	48	50	59
✓ type of services	37	44	38
✓ placement	43	37	30
✓ goals	7	9	4
Staffing	17	23	31
Evaluation & Disability	24	24	17
Financial responsibility*	17	8	11
Discipline	7	9	3
Transportation	2	2	1
FAPE	0	0	1

\* Involves disputes over financial responsibility for costs associated with a program that the parent has selected.

☐ **Requests by Region:**

<b>Regions</b>	<b>2006 - 2007</b>	<b>2005 - 2006</b>	<b>2004 - 2005</b>	<b>2003 – 2004</b>
<b>Region I</b>	9	26	20	12
<b>Region II</b>	12	23	16	24
<b>Region III</b>	15	13	17	12
<b>Region IV</b>	62	44	53	61
<b>Region V</b>	17	10	14	12
<b>Region VI</b>	8	3	7	8
<b>Region VII</b>	1	3	5	3
<b>Region VIII</b>	5	3	1	3

☐ **Trends**

- The total number of requests for mediation (129) is slightly higher than the total for the previous reporting period (125). Eighty-two percent of requests in which parties actually met for mediation (83 of 101) were partially or completely resolved.
- Several superintendents' regions witnessed dramatic changes in the number of requests for mediation during this reporting period. Region I, comprised of the Richmond metropolitan area and surrounding counties, received only about one-third as many mediation requests (9) when compared to the previous year (26 in 2005-06). Also demonstrating a significant decline in mediation requests was Region II (Tidewater and Eastern Shore), where the number of mediation requests (12) was approximately half of that reported in 2005-06 (23). In contrast, three superintendents' regions experienced marked increases in mediation requests. Region IV (Northern Virginia), which claimed the highest number of mediation requests for the third consecutive year, evidenced an approximately 40% increase in requests (62 in this reporting period; 44 in 2005-06). Other regions experienced greater proportionate increases, but with far fewer total mediation requests. The 17 total requests received in Region V (Cities of Charlottesville, Harrisonburg, Lexington, Lynchburg, and Harrisonburg, as well as several surrounding counties) constituted a 70% increase over the number received in the previous reporting period (10). Similarly, Region VI (Cities of Danville, Martinsville, Roanoke, and Salem, and surrounding counties) more than doubled its number of mediation requests, receiving 8 this year, and only 3 in 2005-06.
- Total requests increased only slightly in Regions III (Northern Neck) (15 in 2006-07, and 13 in 2005-06) and VIII (South-Central Virginia) (5 mediation requests this year, and 3 in 2005-06). Region VII (Southwest Virginia) experienced a decrease in mediation requests, down from 3 in 2005-06 to 1 in 2006-07. While increased awareness of the

mediation option may increase the numbers of requests, no specific factors can be cited as contributing to the variations in the total numbers of mediation requests in the respective superintendents' regions.

- Consistent with a three-year pattern, the number of mediation requests made during due process continued to drop, comprising only slightly more than 16% (21 of 129) of all mediation requests for this reporting period. These particular requests claimed approximately 19% and 22% of all mediation requests in 2005-06 and 2004-04, respectively. The number of these requests successfully resolved dropped dramatically in this reporting period, to less than one-third (6 of 21, or about 30%), from about half (13 of 24, or 54%) in 2005-06. A factor which contributes to this is a trend toward requesting mediation only days before a hearing. This practice makes it difficult for parties to prepare for collaboration and a contest at the same time. In comparing mediation and hearings data, it appears that some of the more difficult issues are being directed to mediation rather than toward resolution sessions. It is important to note that when due process is requested, parents and school administrators may jointly waive a resolution session and opt for mediation; however, not all school divisions avail themselves of this option.
- The total number of issues for this reporting period—202—is only slightly lower than the 206 reported in 2005-06. For the third consecutive year, the IEP issue category claimed the highest portion of mediation issues, accounting for about 66% (135 of 202) of the total number of issues. This percentage reflects a slight drop from approximately 68% (140 of 206) in 2005-06, and about 67% (131 of 195) in 2004-05. The evaluation and disability issue category followed as a distant second, accounting for about 12% (24 of 202) of total issues in this reporting period.
- Perhaps significantly, the financial responsibility category more than doubled its total this reporting period, claiming 17 of 202 (8%) of total issues, in contrast to 8 of 206 (about 4%) of total issues in 2005-06. The financial responsibility category may include disputes over tuition reimbursement for private placements as well as attorney's fees and costs associated with other programs.
- The probability of reaching an agreement through mediation is approximately 82%, far surpassing the 30% agreement rate in unassisted resolution sessions.
- There continues to be a large representation in the number of cases in which autism is a pivotal consideration. There has been a corresponding decrease in the age at which student's services have come before a mediator for assistance in negotiation.
- Some mediators report that schools understand and make better use of mediation and come to the table better prepared to cooperatively participate in negotiations.

- Mediators report that attorneys are more frequently attending mediations or acting in an advisory capacity to parties involved in mediation.

## **B. EVALUATIONS**

### ☐ **Consumer Evaluations**

People who are parties to mediation are encouraged to complete a written evaluation to account for their experiences. We distributed 258 this year. The coordinator reviews them for issues he may address and calls for more information if necessary. People are encouraged at any time to call or write the coordinator with their experiences or approach him at a meeting.

Here are some sample comments from participants:

*Parent:* “I felt that the mediator did a great job of helping us to come to an agreement which benefited my daughter. She did a great job of putting my child first and reducing emotions.”

*Administrator:* “The mediator did an excellent job of facilitating this very difficult meeting. She was able to keep the meeting moving forward and her ability to clarify helped us to a successful conclusion.”

*Parent:* “We mediated about how problems that happened this school year could be avoided next year by putting a plan into place.”

*Administrator:* “Mediation is an excellent process to discuss disputes. Our special education dispute was unique in nature. The mediator did a good job during the process.”

*Parent:* “The mediator was very approachable, understanding and informative about the mediation process. She made sure that we and the county representative were each able to speak and helped us all to come to agreement.”

*Administrator:* It was a pleasure working with the mediator. Her explanation of the process was clearly articulated at the start of the meeting. The parents were valued as were the members of the school division. The mediator explored all areas of concern, which led us to a successful agreement.

*Administrator:* “The mediator did an excellent job and we were able to resolve the issues.”

*Administrator:* “The mediator did an excellent job of keeping both parties focused on obtaining mutual agreement.”

### ☐ **Evaluation of Mediators**

Our evaluations extend beyond these informal reports to observations and formal assessments in writing, which are discussed with the mediators. Our objective in assessing

mediators is to constantly point out to them the growing edges of their practice, and to provide the possibility of continuing growth and improvement in their understanding and practice of assisting people in negotiating conflict.

### **C. TRAINING**

Mediators are convened for about 32 hours each year for exposure to issues emerging in the field, in their practices and in the law. They participated in a national conference for mediators in special education sponsored by the Consortium for Appropriate Dispute Resolution in Education. This year their training included a review of the IDEA 2004 legal and regulatory mandates, considerations in 504 cases, case management issues and mediation skills.

### **D. TRAINING PROVIDED TO CONSTITUENTS**

The Coordinator provided workshops in the changes in the IDEA 2004 and on the use of mediation to three parent conferences, five administrative conferences, two National Disability Rights Network Conferences, the National Learning Disabilities Association Conference, Consortium for Appropriate Dispute Resolution Symposium, University of Richmond Law Clinic. He also presented at the Virginia Mediators' Network Conference.

### **E. INITIATIVES**

- In the coming year, ODR/AS will continue to observe and train mediators to maintain quality standards and to preserve mediator acceptability to parties.
- The Alternative Dispute Resolution Document will be completed this year.
- It is unfortunate that, despite ongoing efforts at outreach and public information, some constituents and those who advise them continue to believe that, in order to access mediation services, that it is necessary to request a hearing or make a complaint. This indicates our continuing responsibility to inform the public of the accessibility of mediation at any time for any issue regarding a child's eligibility for special education services or their provision, scope, or delivery.
- A work group has been convened to consider the best use of resolution sessions, required when a hearing has been requested. We are close to reporting out recommendations at this writing.

## PART III COMPLAINTS SYSTEM

- Baseline Data
- Implementation System for CAPS
- ODR/AS Initiatives

### A. BASELINE DATA

#### ☐ Number of Complaints

	Reporting Periods		
	2006 – 2007	2005 – 2006	2004 - 2005
<b>Number of Complaints</b>	<b>115</b>	<b>132</b>	<b>167</b>
• resolved through mediation or otherwise settlement agreement	13	19 <sup>18</sup>	18
• withdrawn	12	18 <sup>19</sup>	25 <sup>20</sup>
• dismissed	2	1	5
• findings/decisions issued	67	94 <sup>21</sup>	119 <sup>22</sup>
• pending as of 6/30/06	21	0	0
Number exceeding the 60- day timeline without the mandated extension	0	0	1

#### ☐ Five-Year Review of Complaints Received

Fiscal Year	2006-2005	2005-2006	2004-2005	2003-2004	2002-2003
Total Number of Complaints	115	132	167	169	173

<sup>18</sup> 2 cases resolved during the 2006-07 reporting period.

<sup>19</sup> 2 cases were withdrawn during the 2006-07 reporting period.

<sup>20</sup> 3 cases were withdrawn during the 2005-06 reporting period.

<sup>21</sup> 19 decisions were rendered during the 2006-07 reporting period.

<sup>22</sup> 42 decisions were rendered during the 2005-06 reporting period.

☐ **Findings/Decisions**

	Reporting Periods		
	2006 – 2007	2005 – 2006	2004 - 2005
Number of decisions issued	67*	75**	77***
Number of issues	217	187	209
Number of issues in compliance	164	138	150
Number of issues in noncompliance	53	49	59

\*As of 6/30/07

\*\*As of 6/30/06

\*\*\*As of 6/30/05

☐ **Decisions Appealed**

	Reporting Periods		
	2006 – 2007	2005 – 2006	2004 - 2005
Number of decisions issued	67	75	77
• <b>appealed</b>	<b>24***</b>	<b>32**</b>	<b>26*</b>
• findings affirmed	15	26	21
• findings reversed	0	2	0
• findings remanded	3	1	2
• findings split	1	3	3
• affirmed issues	9	17	10
• reversed issues	1	8	2
• remanded issues	0	0	3
• dismissed issues	0	0	0
• Appeals Withdrawn	2	0	0
• Appeal decisions pending as of 6/30/07	3	0	0

\*6 appeals were based on findings issued in 2003-2004.

\*\*15 appeals were based on findings issued in 2004-2005.

\*\*\* 8 appeals were based on findings issued in 2005-2006.



☐ **Issues**

Issues/Sub-issues	Reporting Period		
	2006 – 2007		
	#Issues	C*	NC*
<b>IEP</b>	<b>90</b>		
Implementation	54	33	21
Content	3	3	0
Development, Review & Revision	24	21	3
Provision of Progress Reports	3	3	0
Provision of Services	4	4	0
Copy Provided to Parent	2	2	0
<b>IEP Meetings</b>	<b>25</b>		
Team Composition	9	7	2
Parental Participation	6	6	0
Parent Request for Meeting	2	1	1
Copy of IEP to Necessary Staff	2	2	0
Meeting Procedures	2	1	1
Notice	4	4	0
<b>FAPE</b>	<b>8</b>		
Disability Harassment	2	2	0
ESY	5	4	1
Continuum of Alternative Placements	1	1	0
<b>Procedural Safeguards</b>	<b>20</b>		
IEE	3	1	2
Informed Consent	2	1	1
Written Prior Notice	13	12	1
Notice of Procedural Safeguards	2	1	1
<b>LRE</b>	<b>4</b>		
Least Restrictive Environment	4	4	0
<b>Discipline</b>	<b>10</b>		
Disciplinary Procedures	4	4	0
MDR	1	1	0
FBA/BIP	1	1	0
Services During Removal	2	1	1
Child Not Yet Eligible	2	2	0
<b>Eligibility/Evaluation/ Reevaluation</b>	<b>25</b>		
Eligibility Procedures	7	5	2
Evaluation/Reevaluation Procedures	14	10	4
Parental Request for Evaluation	2	2	0
Timelines	1	1	0
Triennial Procedures	1	0	1

Issues/Sub-issues	Reporting Period		
	2006 – 2007		
	#Issues	C*	NC*
<b>Child Find</b>	<b>5</b>		
Child Find Procedures	5	4	1
<b>Program Standards</b>	<b>4</b>		
Qualified Personnel	2	1	1
Length of School Day	1	0	1
Staffing (Caseloads)	1	0	1
<b>Placement</b>	<b>2</b>		
Change in Placement	1	1	0
Private Placement	1	1	0
<b>Records</b>	<b>17</b>		
Access	5	3	2
Confidentiality	4	3	1
Management	8	8	0
<b>Other</b>	<b>7</b>		
Age of Majority Notification	1	0	1
Transfer Student Procedures	6	3	3
<b>TOTALS</b>	<b>217</b>	<b>164</b>	<b>53</b>

\*denotes that the LEA was found to be in compliance “C” or non-compliance “NC”.

Issue Category	Reporting Period 2006-2007			Reporting Period 2005-2006			Reporting Period 2004-2005		
	Total Issues	C	NC	Total Issues	C	NC	Total Issues	C	NC
IEP	90	66	24	71	51	20	75	43	32
IEP Meetings	25	21	4	24	17	7	28	22	6
FAPE	8	7	1	10	10	0	16	15	1
Procedural Safeguards	20	15	5	24	20	4	22	21	1
LRE	4	4	0	5	4	1	4	3	1
Discipline	10	9	1	6	5	1	9	6	3
Eligibility/Evaluation/ Reevaluation	25	18	7	25	20	5	21	16	5
Child Find	5	4	1	1	1	0	4	3	1

Issue Category	Reporting Period 2006-2007			Reporting Period 2005-2006			Reporting Period 2004-2005		
	Total Issues	C	NC	Total Issues	C	NC	Total Issues	C	NC
Program Standards	4	1	3	2	2	0	7	6	1
Placement	2	2	0	0	0	0	0	0	0
Records	17	14	3	5	2	3	8	6	2
Other	7	3	4	14	6	8	15	9	6
<b>TOTALS</b>	<b>217</b>	<b>164</b>	<b>53</b>	<b>187</b>	<b>138</b>	<b>49</b>	<b>209</b>	<b>150</b>	<b>59</b>

### □ Trends

- The number of complaints for this reporting period (115) is 17 less than last year. The number of complaints is approximately 36 less than the average of the total number of cases over the last 5 years (756 total cases, averaging approximately 151 cases per year).
  - Although the number of mediation requests was slightly higher this year (129 in 2006-07, compared to 125 in 2005-06), we cannot conclude that mediation accounts for the decline in the number of complaints. There are no other identifiable factors accounting for this decrease.
  - Revisions to the IDEA implementing regulations became effective October 13, 2006, and amended, among other things, provisions addressing certain complaint content and filing requirements. In addition, the regulations eliminated the three-year filing period for complaints addressing continuing violations or requests for compensatory services, thus limiting all complaints to violations alleged to have occurred within one year prior to receipt of the complaint (34 C.F.R. § 300.153). However, there is no data indicating the numbers of complaints received that were returned for insufficiencies in 2006-07 or previous years (or the reasons therefor), or the numbers of these complaints that were subsequently submitted successfully. Therefore, we cannot conclude that the revised regulatory requirements prompted the decrease in the number of complaints for this reporting period.
- The number of complaint issues increased by 30 from the previous year; however, this number reflects an increase of only 8 from the number of complaint issues reported two years ago. The number of issues remains significant nonetheless, as the regulations require the SEA to address each issue with findings.

- The total number of decisions that were appealed decreased since the last reporting period. Similarly, the percentage of appeals dropped, to 32% (24 of 67) in 2006-07, down from 42% in 2005-06. One-third (8 of 24) of the decisions appealed in 2006-07 were based on findings issued in 2005-06, while nearly half (15 of 32) of the decisions appealed in the prior reporting period were based on findings issued in 2004-05.
- Sub-issue areas with highest numbers of noncompliance findings follows:
  - ✓ IEP implementation (21 of 53)
  - ✓ Evaluation/reevaluation procedures (4 of 53)
  - ✓ IEP development, review & revision (3 of 53)
  - ✓ Transfer student procedures (3 of 53)
- For the third consecutive year, the IEP issue category claimed the highest portion of complaint issues, comprising approximately 41% (90 of 217) of the total number of issues. This percentage reflects only a slight increase from approximately 38% (71 of 187) in 2005-06, and approximately 36% (75 of 209) in 2004-05. The IEP meetings and Eligibility/Evaluation/Reevaluation issue categories followed, each accounting for slightly more than 11% (25 of 217) of total complaint issues.
- Issue categories that demonstrated improvement in compliance (as a percentage of complaints submitted in the particular category) since the last reporting period follow:
  - ✓ Records (82%; 40% in 2005-06)
  - ✓ LRE (100%; 80% in 2005-06)
  - ✓ IEP meetings (84%; 70% in 2005-06)
  - ✓ Discipline (90%; 83% in 2005-6)
  - ✓ IEP (73%; 72% in 2005-06)
- Data reflects no clear nexus between revised regulatory requirements and any significant increase or decrease in various complaint totals or findings.

## **B. IMPLEMENTATION SYSTEM FOR CORRECTIVE ACTION PLANS**

VDOE identified as one of its target areas in its Continuous Improvement Monitoring Process and Annual Performance Report to follow up with school divisions to ensure timely correction of non-compliances as required by complaint decisions. This meant developing a system to review all Corrective Action Plans (CAPs) that had been approved by ODR/AS, and as necessary, require documentation and/or initiate an on-site review to ensure complete implementation. In VDOE's CIMP reports to OSEP in June and November 2003, and 2004 Annual Performance Report, ODR/AS evidenced its system for meeting this responsibility, which was developed and implemented on July 1, 2003. ODR/AS began with the 2001-02 school year CAPs. This element is now included in the State Performance Plan (Indicator 15).

<b>Fiscal Year</b>	<b>Number of Decisions Issued</b>	<b>Pending Decision</b>	<b>CAPs Issued</b>	<b>Reviewed for Full Implementation and Closed</b>	<b>Pending Review</b>
2006-07	67	21	35*	0	35
2005-06	94	0	38	38**	0
2004-05	119	0	55	54	1***
2003-02	113	0	52	58	0
2002-03	128	0	66	66	0

\* As of 06/30/07

\*\*An additional 9 cases which were identified as being self-corrected were also reviewed.

\*\*\*As of 6/30/07, 1 case remains in litigation.

### **C. INITIATIVES**

- As noted in the previous due process and mediation sections of this report, ODR/AS is developing a guidance document on Alternative Dispute Resolution for parents and other consumers. One of the document's sections focuses on the complaints system.
- Three of ODR/AS' complaints specialists were newly hired during this reporting period. Their orientation included: intensive review of the office's procedures for processing complaints and inquiries; and on-going trainings on special education law and regulatory matters. Each specialist is assigned to two regions and serves on VDOE's technical assistance team for those particular regions. The specialist also attends regional meetings of the special education directors in the assigned region.
- ODR/AS staff, particularly the complaints staff, work closely with the VDOE parent ombudsman and parent resource specialist (both with the Office of Student Services) to provide information and guidance to the Parent Resource Centers and parents on dispute resolution matters. The ombudsman position began in 2003-04 in response to the Code Commission's 2001 recommendation to VDOE to create such a position to assist parents with special education matters and understanding of dispute resolution options.
- Complaints staff will assist with the trainings on the new IDEA federal regulations and revision of Virginia's regulations governing special education.

## **PART IV ADMINISTRATIVE SERVICES**

- O Annual Plans
- O Inquiries
- O Freedom of Information Act Requests
- O Initiatives

The Office of Dispute Resolution and Administrative Services is also responsible for:

- coordinating the Annual Plan process for the local school divisions and state operated programs. The coordinator of administrative services oversees the annual plan system, and provides technical assistance and trainings regarding its components.
- training initiatives relative to changes in the IDEA '04 statute and its federal implementing regulations, and coordinating VDOE's revision of the Virginia regulations governing special education. Administrative Services staff is responsible for this function.
- coordinating the process for developing and posting responses to the Frequently Asked Questions (FAQs), reflecting questions generated by the field. The coordinator of administrative services oversees this operation.
- responding to written and electronic inquiries involving the application of federal and state regulations governing special education. The ODR/AS staff is responsible for responding to inquiries.
- responding to Freedom of Information Act (FOIA) requests relative to the dispute resolution systems. The coordinator of due process services coordinates the responses to FOIA requests.

### **☐ Annual Plans**

Pursuant to the *Code of Virginia*, § 22.1-215, each of the 150 Virginia school divisions and state-operated programs shall submit to VDOE for approval a plan to provide special education services to identified children with disabilities within its jurisdiction. This plan shall not be submitted more than annually unless changes to the plan are required by federal or state law or regulation. This plan must be received by VDOE, in substantially approvable form, no later than July 1 of each year.

During the 2006-2007 school year, ODR/AS revised this process to comply with the mandates of IDEA's 2006 federal implementing regulations, and provided trainings to all regions and new Directors of Special Education regarding the impact of those mandates on the Annual Plan process. For example, ODR/AS provided technical assistance to school divisions and state-operated programs, which were each required to modify local policies and procedures in accordance with the 2006 federal special education regulations. In addition, ODR/AS continued to provide training and technical assistance to ensure that each school division submitted an electronic application for federal funding via the Online Management of Education Grant Awards (OMEGA) system.

#### **☐ The IDEA 2004 and the Regulatory Process**

ODR/AS is responsible for coordinating the revision of the "Regulations Governing Special Education for Children with Disabilities in Virginia," Virginia's special education regulations. A framework for this process was developed during the 2005-2006 school year, and multiple training opportunities regarding this process have been provided to parents, advocates, LEA personnel, and other consumers. In accordance with the regulations revision framework, following the issuance of the federal IDEA implementing regulations in August 2006, ODRAS engaged in a number of activities, including the following:

- Developed and disseminated technical assistance documents which outlined the impact of the new federal requirements on special education in Virginia;
- Provided more than 20 training sessions, state-wide, on the new federal special education regulations to approximately 1000 people, including LEA personnel, parents, advocates, and other consumers to facilitate the implementation and understanding of the new requirements;
- Collaborated with the State Special Education Advisory Committee to develop a reader-friendly version of the state's model Procedural Safeguards document, and posted the document to the VDOE web site in an accessible, user-friendly format;
- Updated, as appropriate, the dedicated web site for the regulations revisions process at <http://www.doe.virginia.gov/VDOE/dueproc/regulationsCWD.html>;
- On October 25, 2006, presented the "Notice of Intended Regulatory Action" (NOIRA) to the Board of Education for their approval;
- On December 14, 2006, convened a group of stakeholders to provide broad-based input regarding the critical areas of concern for the regulations revision process;
- Following the publication of the NOIRA and the first public comment period, collected and analyzed 164 submissions, totaling 1,747 public comments, and issued a summary document for stakeholders;
- Attended trainings regarding the Town Hall; and

- Developed proposed regulatory language, which was sent to the Attorney General's office for review and approval.

### ☐ **Frequently Asked Questions**

The revision of the IDEA, and the issuance of the new federal implementing regulations, resulted in a reprioritizing of this activity. ODR/AS' goal is to ensure timely posting of FAQs on the division's web site, once the state regulations revision process is complete.

### ☐ **Inquiries**

Fiscal Year	2006-2007	2005-2006	2004-2005	2003-2004	2002-2003
Number of Requests	174	236	158	146	158

Inquiries are requests for interpretation or application of regulations that are not related to a specific complaint, mediation, or due process case. As the data indicates, there has been a decrease in the number of inquiry requests. Part of this is attributable to the guidance documents issued by this office and the significant number of training opportunities which were made available regarding the implications of the new federal mandates on special education in Virginia.

### ☐ **Freedom of Information Act Requests**

Fiscal Year	2006-2007	2005-2006	2004-2005	2003-2004
Number of Requests	14	29	28	34

### ☐ **Initiatives**

Administrative Services will be responsible for the following activities during the 2007-08 year:

- Coordination of the revision of Virginia's regulations governing special education in compliance with Virginia's Administrative Process Act, including convening public hearings, analyzing public comments, and preparing and distributing technical assistance information to encourage public participation in the revision process. It is anticipated that the proposed special education regulations and accompanying information will be presented to the Board of Education for action at its September 2007 meeting.



- Developing technical assistance documents, and providing training opportunities state-wide to review and clarify federal mandates regarding special education, and their impact in Virginia.
- Coordination of the Annual Plan process to ensure compliance with the IDEA and the new federal implementing regulations.

- APPENDIX

Dispute Resolution Activities by Local Educational Agency  
2006 - 2007

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cc: VDOE's management team responsible for the State Performance Plan  
VDOE staff in the Division of Special Education and Student Services  
VDOE hearing officers and mediators  
Art Cernosia, Esq., Consultant to VDOE  
Virginia Supreme Court, Office of the Executive Coordinator  
State Special Education Advisory Committee  
Code Commission, ALAC  
Directors of Special Education  
U.S. Department of Education, Office of Special Education Programs

**APPENDIX A**  
**Dispute Resolution Activities by LEA**  
**2006-2007**

<b>SCHOOL DIVISION</b>	<b>SPED PUPILS AGES 0-22+</b>	<b>TOTAL PUPILS</b>	<b>Due Process Hearings Filed</b>	<b>SPED Complaints Filed</b>	<b>Mediation Cases</b>
Accomack	813	5,371	0	2	1
Albemarle	1,740	12,735	0	1	1
Alexandria City	1,802	10,334	1	0	1
Alleghany	516	2,923	0	0	0
Amelia	247	1,847	0	0	0
Amherst	575	4,796	0	0	1
Appomattox	332	2,307	0	1	0
Arlington	2,921	18,456	3	2	5
Augusta	1,584	11,105	0	0	0
Bath	104	761	0	0	0
Bedford	1,187	11,146	1	0	1
Bland	157	913	0	0	0
Botetourt	741	4,941	0	1	1
Bristol City	380	2,395	0	0	0
Brunswick	298	2,260	0	0	0
Buchanan	693	3,436	0	0	0
Buckingham	260	2,150	0	0	0
Buena Vista City	153	1,189	0	0	0
Campbell	1,013	8,938	1	0	0
Caroline	593	4,196	0	0	0
Carroll	610	4,055	0	0	0
Charles City County	138	853	0	0	0
Charlotte	344	2,196	0	0	0
Charlottesville City	698	4,226	0	0	1
Chesapeake City	7,094	39,763	2	3	0
Chesterfield	8,302	58,455	4	8	1
Clarke	166	2,245	0	0	0
Colonial Beach	92	575	0	0	0
Colonial Heights City	436	2,895	1	0	1
Covington City	198	876	0	1	0
Craig	133	755	0	0	0

<b>SCHOOL DIVISION</b>	<b>SPED PUPILS AGES 0-22+</b>	<b>TOTAL PUPILS</b>	<b>Due Process Hearings Filed</b>	<b>SPED Complaints Filed</b>	<b>Mediation Cases</b>
Culpeper	757	7,363	0	1	0
Cumberland	195	1,557	0	2	1
Danville City	1,010	6,904	0	0	4
Dickenson	420	2,464	0	0	0
Dinwiddie	656	4,639	0	0	0
Essex	261	1,690	0	0	1
Fairfax	23,791	163,962	17	10	15
Falls Church City	274	1,883	0	0	2
Fauquier	1,332	11,134	1	0	0
Floyd	341	2,068	0	0	0
Fluvanna	562	3,669	0	0	0
Franklin	1,341	7,602	0	0	0
Franklin City	251	1,394	0	0	0
Frederick	1,763	12,605	1	1	1
Fredericksburg City	335	2,536	0	0	1
Galax City	136	1,304	0	0	0
Giles	383	2,605	0	0	0
Gloucester	730	6,092	0	0	0
Goochland	342	2,312	0	0	1
Grayson	290	2,076	0	0	1
Greene	484	2,845	0	0	0
Greensville	362	2,670	0	0	0
Halifax	1,148	5,907	0	1	0
Hampton City	3,302	22,265	2	4	1
Hanover	3,013	19,201	2	3	0
Harrisonburg City	569	4,416	2	0	4
Henrico	7,026	47,680	5	7	3
Henry	1,359	7,821	0	1	0
Highland	62	302	0	0	0
Hopewell City	665	4,050	1	1	0
Isle of Wight	784	5,434	0	1	0
King & Queen	179	783	0	1	0
King George	411	3,794	0	6	2
King William	315	2,055	0	0	0

<b>SCHOOL DIVISION</b>	<b>SPED PUPILS AGES 0-22+</b>	<b>TOTAL PUPILS</b>	<b>Due Process Hearings Filed</b>	<b>SPED Complaints Filed</b>	<b>Mediation Cases</b>
Lancaster	181	1,452	0	1	0
Lee	676	3,564	0	0	0
Lexington City	71	493	0	0	0
Loudoun	4,960	50,416	2	12	27
Louisa	732	4,574	0	0	0
Lunenburg	272	1,753	0	1	1
Lynchburg City	1,528	8,883	0	1	4
Madison	209	1,899	0	0	0
Manassas City	824	6,495	0	0	0
Manassas Park City	276	2,497	0	0	0
Martinsville City	314	2,517	0	0	0
Mathews	222	1,278	0	0	0
Mecklenburg	848	4,910	0	0	0
Middlesex	211	1,315	0	0	1
Montgomery	1,298	9,696	1	1	1
Nelson	309	2,028	0	0	0
New Kent	473	2,721	0	0	0
Newport News City	4,414	32,381	0	3	1
Norfolk City	4,958	35,657	6	1	0
Northampton	283	1,908	0	1	0
Northumberland	188	1,547	0	0	0
Norton City	100	752	0	0	0
Nottoway	390	2,338	0	0	1
Orange	550	4,845	0	0	1
Page	426	3,701	0	0	0
Patrick	443	2,583	0	0	0
Petersburg City	598	4,962	0	0	0
Pittsylvania	1,363	9,423	1	1	1
Poquoson City	277	2,602	0	0	0
Portsmouth City	2,310	15,441	0	3	0
Powhatan	591	4,408	0	0	0
Prince Edward	564	2,773	0	1	1
Prince George	747	6,160	2	0	1
Prince William	8,091	70,948	1	5	6

<b>SCHOOL DIVISION</b>	<b>SPED PUPILS AGES 0-22+</b>	<b>TOTAL PUPILS</b>	<b>Due Process Hearings Filed</b>	<b>SPED Complaints Filed</b>	<b>Mediation Cases</b>
Pulaski	819	5,051	0	0	0
Radford City	240	1,535	0	0	0
Rappahannock	132	1,002	0	0	0
Richmond County	170	1,203	0	1	0
Richmond City	4,842	24,226	1	2	1
Roanoke	2,222	14,884	1	1	0
Roanoke City	1,910	13,227	0	0	0
Rockbridge	382	2,889	1	0	1
Rockingham	1,413	11,881	0	0	6
Russell	791	4,281	0	0	0
Salem City	480	3,978	0	0	0
Scott	704	3,845	0	0	0
Shenandoah	901	6,215	2	0	2
Smyth	861	5,008	0	0	0
Southampton	506	2,875	0	0	0
Spotsylvania	3,153	24,140	1	4	4
Stafford	2,406	26,508	3	6	5
Staunton City	456	2,684	0	0	0
Suffolk City	1,667	13,987	3	2	1
Surry	140	1,080	0	0	0
Sussex	205	1,380	1	0	0
Tazewell	1,028	6,999	0	0	0
Virginia Beach City	10,133	72,543	1	7	3
Warren	755	5,332	0	1	2
Washington	1,028	7,483	0	1	1
Waynesboro City	316	3,097	0	0	0
West Point	97	800	0	0	1
Westmoreland	249	1,852	0	0	0
Williamsburg-James City	1,472	10,107	0	2	3
Winchester City	643	3,751	0	0	0
Wise	967	6,704	0	0	0
Wythe	486	4,277	1	0	0
York	1,198	12,678	1	0	2

SCHOOL DIVISION	SPED PUPILS AGES 0-22+	TOTAL PUPILS	Due Process Hearings Filed	SPED Complaints Filed	Mediation Cases
Department of Ed.			1	0	0
OTHER – SOP			1	0	0

**Explanatory Note:**

Appendix A records the incidence of use of the dispute resolution systems by school division. Comparisons between them or conclusions about individual districts are not easily drawn. Factors at work include level of parent and school staff information about available forums, readiness to employ state systems, the existence of effective local systems for identifying and processing issues.